

REMARKS

The Examiner is thanked for the telephone interview courteously granted to the undersigned, on November 23, 2009. During this telephone interview, the undersigned questioned the Examiner as to whether the remaining claim rejection, under the second paragraph of 35 USC 112, would be withdrawn if the subject matter of claim 11 were incorporated into claim 1. In response thereto, the Examiner indicated that if the subject matter of claim 11 were incorporated into claim 1, then the remaining rejection should be withdrawn as the stimulus is specifically a *paratuberculosis* antigen.

Accordingly, Applicants have amended their claims in order to incorporate the subject matter of claim 11 into claim 1. In light thereof, and noting claim 13, Applicants have cancelled claims 11 and 12 without prejudice or disclaimer.

Initially, it is respectfully requested that the present amendments be entered. Noting, in particular, comments by the Examiner during the aforementioned telephone interview on November 23, 2009, it is respectfully submitted that the present amendments clearly materially limit issues remaining in connection with the above-identified application, avoiding the remaining rejection. Noting previously considered claim 11, it is respectfully submitted that the present amendments do not raise any new issues, including any issue of new matter. In addition, again noting comments by the Examiner during the aforementioned telephone interview on November 23, 2009, it is respectfully submitted that the present amendments are timely.

In view of the foregoing, it is respectfully submitted that Applicants have made the necessary showing under 37 CFR 1.116(b); and that, accordingly, entry of the present amendments is clearly proper.

In the Office Action dated September 23, 2009, the sole rejection of claims therein was under the second paragraph of 35 USC 112, as being indefinite, set forth in Item 8 on pages 2 and 3 thereof. The rejection set forth therein is moot, in light of incorporation of subject matter of claim 11 into claim 1.

Applicants respectfully traverse the rejection of claims 4, 11 and 12 under the second paragraph of 35 USC 112, as being indefinite, on the basis that these claims “depend from rejected claims”. It is respectfully submitted that the subject matter of each of claims 4, 11 and 12 (claim 12 being dependent on claim 11) clearly obviates the basis for rejection of claim 1 as set forth in Item 8 on pages 2 and 3 of the Office Action dated September 23, 2009, as made clear by the Examiner during the above-mentioned telephone interview on November 23, 2009.

In view of the foregoing comments and amendments, entry of the present amendments, and reconsideration and allowance of all claims then pending in the above-identified application, are respectfully requested.

To the extent necessary, Applicants hereby petition for an extension of time under 37 CFR 1.136. Kindly charge any shortage of fees due in connection with the filing of this paper, including any extension of time fees, to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Account No. 01-2135 (case 1333.46042X00), and please credit any overpayments to such Deposit Account.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

By /William I. Solomon/
William I. Solomon, Registration No. 28,565

WIS/ksh
1300 N. 17th Street, Suite 1800
Arlington, Virginia 22209
Tel: 703-312-6600
Fax: 703-312-6666